

Orders and Regulations Relating to the Conduct of Local Authority Members in England: Leeds City Council Consultation Response

Specific questions posed in consultation paper

Question 1

- a) Does our proposal to prohibit a Member who has been involved in a decision on the initial assessment of an allegation from reviewing any subsequent request to review that decision to take no action (but for such a Member not to be prohibited necessarily from taking part in any subsequent determination hearing), provide an appropriate balance between the need to avoid conflicts of interest and ensure a proportionate approach?

Yes, Leeds City Council agrees that prohibiting a Member who has been involved in a decision on the initial assessment of an allegation from reviewing that decision to take no action, provides an appropriate balance between the avoiding conflicts of interest and ensuring a proportionate approach.

It is the opinion of a Parish representative on the Committee that the only restrictions which should be placed on a standards committee should be those of proportionality. If it is ensured at all times that the sub-committees are scrupulously proportionate there should be no need for prohibitions.

It is the opinion of the second Parish representative on the Committee that in principle, yes, a review should be by an independent sub-committee who has no involvement with an initial determination. However, an initial assessment and hearing of the complaint should be capable of being conducted by the same members unless they have formed such an unfavourable view of the person complained about at the initial assessment that they feel they could not give a fair hearing to the 'defendant'. It would be for the member to disbar themselves and say why. The same committee hearing the complaint should fix the appropriate penalty if any.

- b) Would a requirement to perform the functions of initial assessment, review of a decision to take no action, and subsequent hearing, by sub-committees be workable?

Yes, Leeds City Council believes that a system of sub-committees would be workable, but plans to use sub-committees for the first two stages only and then have the full Standards Committee conduct any subsequent hearings.

Question 2

Where an allegation is made to more than one standards committee, is it appropriate for decisions on which standards committee should deal with it to be a matter for agreement between standards committees? Do you agree that it is neither necessary nor desirable to provide for any adjudication role for the Standards Board?

Leeds City Council believes that the Standards Board for England should take on an adjudication role, as disputes may arise between authorities due to the cost of investigations.

It is the opinion of a Parish representative on the Standards Committee that it is appropriate for the decision to be matter of agreement between standards committees, providing these deliberations do not drag out the proceedings even longer than normal. The Standards Board need not be involved.

It is the opinion of the second Parish representative on the Committee that where possible, the separate committees should try to agree framework and procedure but if it can't be agreed, then the Standards Board should make a ruling.

Question 3

Are you content with our proposal that the timescale for making initial decisions should be a matter for guidance by the Standards Board, rather than for the imposition of a statutory time limit?

Leeds City Council agrees that the timescale for making initial decisions should be a matter for guidance, although the example of a 20 working day time limit may be onerous if dealing with more than one complaint at the same time. A 20 working day time limit would also only be acceptable if the sub-committee meetings were exempt from the rules on access to information.

Question 4

- a) Do you agree that the sort of circumstances we have identified would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made?

Yes, Leeds City Council agrees that the sort of circumstances listed in the consultation paper would justify a standards committee being relieved of the obligation to provide a summary of the allegation at the time the initial assessment is made.

It is also important that 'whistle-blowing' in the Council does not compromise any future police enquiry, particularly where fraud is concerned or where there is the possibility following any offence of a police enquiry.

- b) Are there any other circumstances which you think would also justify the withholding of information?

Leeds City Council is unable to think of any other circumstances which would also justify the withholding of information.

- c) Do you agree that a case where the summary has been withheld the obligation to provide it should arise at the point where the monitoring officer or ethical standards officer is of the view that a sufficient investigation has been undertaken?

Yes, Leeds City Council also agrees that the summary should be provided once the monitoring officer or ethical standards officer is satisfied that a sufficient investigation has been undertaken.

Question 5

Do you agree that circumstances should be prescribed, as we have proposed, in which the monitoring officer will refer a case back to the standards committee?

Yes, Leeds City Council agrees that circumstances should be prescribed, as proposed.

Question 6

Are you in favour of an increase in the maximum sanction the standards committee can impose? If so, are you content that the maximum sanction should increase from three to six months suspension or partial suspension from office?

Yes, Leeds City Council is in favour of an increase in the maximum sanction that the standards committee can impose. Yes, Leeds City Council is content with the maximum sanction of six months suspension or partial suspension of office.

It is the opinion of a Parish representative on the Committee that there is an argument for the sanction being raised to 12 months.

Question 7

Do you have any views on the practicability of requiring that the chairs of all sub-committees discharging the assessment, review and hearing functions should be independent, which is likely to mean that there would need to be at least three independent chairs for each standards committee? Would it be consistent with robust decision-making if one or more of the sub-committee chairs were not independent?

Leeds City Council acknowledges that it would be preferable if sub-committee Chairs were independent members, although it would be preferable if this was not made an absolute rule in order to allow standards committee additional flexibility when arranging meetings. Reducing the quorum from three to two members would also allow greater flexibility when calling meetings.

The Independent Chair of the Standards Committee considers that it is practicable to require that the chairs of all sub-committees be independent and this should be the case. The ancillary question is not the one to ask, rather the question should be about public perception and chairing by independent members is very important on those grounds.

A Parish representative on the Standards Committee is of the opinion that it would not be consistent with robust decision making if one or more of the sub-committee chairs were not independent.

The second parish representative on the Committee is of the opinion that both Parish representatives would be capable of chairing the sub-committees, with help from the Monitoring Officer. The only issue would be whether the members of the political parties would be happy with a Parish Councillor chairing the sub-committees, but if the Chair is right and can carry respect, then that person should be asked to preside.

Question 8

Do you agree with our proposal that the initial assessment of misconduct allegations and any review of a standards committee's decision to take no action should be exempt from the rules on access to information?

Yes, Leeds City Council agrees that these meetings should be exempt from rules on access to information. Regulations should encapsulate this and may also need to amend or add another paragraph to the Access to Information schedule requirements to permit this to happen as the meetings of the initial assessment and the review sub-committees will be "meetings" covered by the Local Government Act 1972 provisions.

Question 9

Have we identified appropriate criteria for the Standards Board to consider when making decisions to suspend a standards committee's powers to make initial assessments? Are there any other relevant criteria which the Board ought to take into account?

Yes, Leeds City Council considers that you have identified appropriate criteria for the Standards Board to consider when suspending a standards committee's powers. Leeds City Council can think of no other relevant criteria which the Board ought to take into account.

Question 10

Would the imposition of a charging regime, to allow the Standards Board and local authorities to recover the costs incurred by them, be effective in principle in supporting the operation of the new locally-based ethical regime? If so, should the level of fees be left for the Board or authorities to set; or should it be prescribed by the Secretary of State or set at a level that does no more than recover costs?

Leeds City Council believes that there should be the ability to recover costs if undertaking work on behalf of another authority. The level should do no more than recover costs and it should be for the Monitoring Officer to make such arrangements with the neighbouring authority as appropriate.

A Parish representative on the Committee is concerned that charging in the circumstances proposed could lead to resentment between authorities. However, in the absence of a fund to be made available by the Treasury, there should be a charging regime for work done in the circumstances outlined. A tariff could be worked out by the Secretary of State and reviewed annually.

Question 11

Would you be interested in pursuing joint working arrangements with other authorities? Do you have experience of joint working with other authorities and suggestions as to how it can be made to work effectively in practice? Do you think there is a need to limit the geographical area to be covered by a particular joint agreement and, if so, how should such a limitation be expressed? Do you agree that if a matter relating to a parish council is discussed by a joint committee, the requirement

for a parish representative to be present should be satisfied if a representative from any parish in the joint committee's area attends?

Leeds City Council would not currently consider pursuing joint working arrangements with other authorities. There has been inconsistent advice regarding joint working so far, and local authorities require more flexibility in their arrangements.

One of the Parish representatives on the Standards Committee would be interested in considering working with other authorities, and would suggest 'clustering' in geographical areas for ease of organisation. They also believe that a representative from any parish should be able to fulfil this role.

The second Parish representative on the Standards Committee considers that the Leeds City Council Standards Committee needs to be sure that they are able to cope with their workload efficiently before looking at working jointly with others. It is sensible that any Parish Councillor could fulfil the requirements of the joint committee, but it would need to be made clear to the Parish Clerk that a Parish representative would be present and who it would be.

Question 12

Are you content that the range of sanctions available to case tribunals of the Adjudication Panel should be expanded, so the sanctions they can impose reflect those already available to standards committees?

Leeds City Council would be content with the range of sanctions available to the Adjudication Panel being expanded.

Question 13

Do you agree with our proposals for an ethical standards officer to be able to withdraw references to the Adjudication Panel in the circumstances described? Are there are other situations in which it might be appropriate for an ethical standards officer to withdraw a reference or an interim reference?

Yes, ethical standards officers should be able to withdraw references to the Adjudication Panel in the circumstances described in the paper.

Question 14

Have you made decisions under the existing dispensation regulations, or have you felt inhibited from doing so? Do the concerns we have indicated on the current effect if these rules adequately reflect your views, or are there any further concerns you have on the way they operate? Are you content with our proposal to provide that dispensations may be granted in respect of a committee or the full council if the effect otherwise would be that a political party either lost a majority which it had previously held, or gained a majority it did not previously hold?

Yes the Standards Committee has made decisions under the existing dispensation regulations, but Leeds City Council has no view on the other points made.

Question 15

Do you think it is necessary for the Secretary of State to make regulations under the Local Government and Housing Act 1989, to provide for authorities not required to have standards committees to establish committees to undertake functions with regard to the exemption of certain posts from political restrictions, or will the affected authorities make arrangements under section 101 of the Local Government Act 1972 instead? Are you aware of any authorities other than waste authorities which are not required to establish a standards committee under section 53(1) of the 2000 Act, but which are subject to the political restrictions provisions?

Not applicable.

Question 16

Do you agree with our proposal to implement the reformed conduct regime on 1st April 2008 at the earliest?

Leeds City Council will not be ready to start the new regime by 1st April 2008. This is because there has been no final guidance or regulations issued by the Standards Board for England and Communities and Local Government. Leeds City Council needs a longer lead in time to determine valid arrangements in light of the published regulations and guidance, and processes need to be followed in order for documents to be approved by the Standards Committee, the Corporate Governance and Audit Committee and the Full Council at their Annual Meeting.

We are of the view that we will be able to develop revised arrangements for consideration at the Annual Meeting of Council. Therefore commencing at the start of the municipal year would seem more appropriate than the financial year.

Any other comments on the consultation paper

One of the Parish representatives on the Committee is of the view that the Standards Board has given a huge amount of additional work to the standards committees and taken upon itself a supervisory role as regulator with not a lot to do. There is no recognition of the extra work and cost involved to standards committees (except in relation to acting as counsellor to non performing standards committees) and a tremendous amount will fall on the shoulders of the independent members of a committee.

There is also no recognition that Parish representatives (in appropriate cases) could act as Chair-people with the help of the Monitoring Officer. In standards committee terms, there is not the same degree of political bias as there may be if a representative from one of the political parties was to chair a complaint.